

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	19Cr0622 (DLC)
	:	
-v-	:	<u>ORDER</u>
	:	
CARLOS ESPINAL,	:	
Defendant.	:	
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DENISE COTE, District Judge:

The sentencing for Carlos Espinal is currently scheduled for June 19, 2020. He is incarcerated. On June 5, Espinal requested an adjournment of his June 19 sentencing and an extension of the deadline for his sentencing submission.

The Chief Judge of the Southern District of New York issued Standing Order 20-MC-176 of March 30, 2020, finding that felony sentencings cannot be conducted in person without seriously jeopardizing public health and safety due to the pandemic. It is uncertain when in-person proceedings may safely resume in the Southern District of New York, and how many sentencings of in-custody defendants will be allowed to proceed whenever in-person proceedings resume. In the event it is not possible for an in-person sentencing of the defendant to take place, the defendant may consent to be sentenced in a videoconference proceeding so long as the Court finds that a further delay in the sentence would result in serious harm to the interests of justice. See §

15002(b)(2) of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act.

Accordingly, it is hereby

ORDERED that the June 19, 2020 sentencing is adjourned to Thursday, **July 23, 2020** at **11:00 am**. The sentencing will proceed in court if that is possible.

IT IS FURTHER ORDERED that by **July 9, 2020**, defense counsel shall advise the Court whether the defendant consents to proceed to be sentenced in a videoconference proceeding in the event an in-person sentencing proceeding cannot occur on July 23.

IT IS FURTHER ORDERED that by **July 9, 2020**, the parties will advise the Court of whether there are grounds to find that there would be serious harm to the interests of justice if the sentencing does not proceed in July 2020.


IT IS FURTHER ORDERED that if an in-person proceeding cannot occur, the defendant consents to a videoconference proceeding, and further delay would seriously harm the interests of justice, an Order will issue that provides the date and time of the remote sentencing, as well as the credentials necessary for accessing the proceeding via CourtCall. The CourtCall platform permits the defendant, defense counsel, and the Government to appear, each from their separate locations, before the Court by video, and affords the defendant and defense

counsel the opportunity to consult with each other separately in a breakout room upon request.

IT IS FURTHER ORDERED that should the defendant consent to proceed to be sentenced in a videoconference proceeding, defense counsel shall discuss the attached Waiver of Right to be Present at Criminal Proceeding with the defendant. If the defendant is able to sign the form (either personally or, in accordance with Standing Order 20-MC-174 of March 27, 2020, by defense counsel), defense counsel shall file the executed form at least 24 hours prior to the sentencing. In the event the defendant consents, but counsel is unable to obtain or affix the defendant's signature on the form, the Court will conduct an inquiry at the outset of the proceeding to determine whether it is appropriate for the Court to add the defendant's signature to the form.

IT IS FURTHER ORDERED that the defendant's sentencing submission shall be due **July 9, 2020**; the Government's sentencing submission shall be due **July 16**.

Dated: New York, New York  
June 8, 2020

  
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DENISE COTE  
United States District Judge